

IN THE UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

DEVON FRYE,

Plaintiff

v.

STEVEN R. GLUNT, ET AL.,

Defendants

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CIVIL NO. 3:CV-15-1503

(Judge Conaboy)

FILED
SCRANTON

AUG 27 2015

MEMORANDUM
Background

PER **CR**
DEPUTY CLERK

Devon Frye, an inmate presently confined at the Rockview State Correctional Institution, Bellefonte, Pennsylvania (SCI-Rockview), recently initiated this pro se civil rights action pursuant to 42 U.S.C. § 1983. Service of the Complaint has not been ordered.

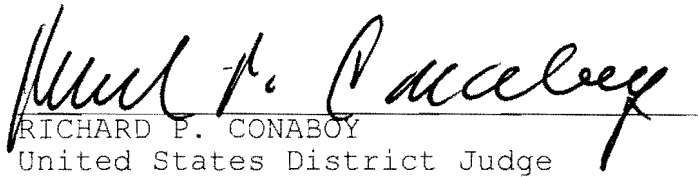
On August 27, 2015, Plaintiff filed a notice to withdraw his complaint without prejudice. See Doc. 6. Frye's submission states that "I would like for the pending pro se lawsuit to be withdraw [sic] without prejudice." Id. at p. 1.

Frye's request will be construed as a notice of voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1).¹

1. Federal Rule of Civil Procedure 41(a)(1)(A)((i) provides that a plaintiff may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. Dismissal under this provision is without prejudice.

Since service of the Complaint has not yet been ordered, Plaintiff is entitled to voluntary dismissal under Rule 41(a)(1).

The Court will accept Plaintiff's notice of voluntary dismissal and his complaint will be dismissed without prejudice to Plaintiff's renewal of his claims. However, Plaintiff is forewarned that renewal of his claims is subject to the applicable statute of limitations. See Wilson v. Garcia, 471 U.S. 261, 276 (1985). An appropriate Order will enter.


RICHARD P. CONABOY
United States District Judge

DATED: AUGUST 27th, 2015